



December 5, 2005

Mr. David C. Peeler, Manager
Water Quality Program
Department of Ecology

Re: Draft of CAFO NPDES and State Waste Discharge General Permit

Dear Dave:

Thank you for the opportunity to comment on the draft CAFO General Permit. We appreciate the progress the Department has made revising and moving forward on this permit. A number of the changes made in the October 19th Draft are clear improvements.

We endorse the comments submitted by Lynn Bahrych and offer the following additional comments.

We are supportive of changes made to clarify that water quality standards must be met and that Nutrient Management Plans are public documents as per the *Waterkeeper* decision.

In Section S2 (5)(a), we recommend that you consider expanding public notice requirements beyond WAC 173-226-130(5) and provide electronic notice on your web-site when applications are received and consider keeping a "registry" of those interested in receiving electronic notice.

In Section S3, we recommend several changes.

First, we continue to be extremely concerned about the use of "equivalent" BMP's. We seriously question how the Department will evaluate any equivalency. The agency lacks expertise in this area and the permit does not make clear how, in fact, your staff would make these determinations. We feel that, at a minimum, the permit should spell out an approach which would involve field testing with vigorous monitoring requirements over an extended period of time. Furthermore, we do not believe that it is appropriate to delegate the determination to the Department of Agriculture as S3(A)(b) seems to do.

While we support use of NRCS BMP's, we do not believe that they are likely to guarantee that water quality standards be met at all times. These approaches should also be field tested in the very wet conditions we experience in Western Washington to determine if they are effective.

We support the monitoring requirements in S4(c)(2), but question why these requirements should not apply to all CAFO's? In addition, we believe that the permit should require water quality monitoring of ground water and, when appropriate, surface water. The requirements here should be developed in more detail. We do not feel it is

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appropriate for applicants to develop their own protocols for monitoring.

S3 must be amended to include a specific reference to AKART. All permittees in this state must meet the requirement of “all known available and reasonable technology,” which is not necessarily satisfied by NRCS standards or their equivalent.

In terms of application requirements spelled out in S3(A)(3), we have several concerns. The permit language should be made more prescriptive. Subsection 3(a) application which is geared toward “reasonable” production goals, while “minimizing” nitrogen and phosphorus entering ground water. These terms are too vague to provide any real guidance. The term “minimize” is used again in 3(b), again, providing little direction. 3(b) should refer to surface *and* ground waters. We object to the use of alternate setbacks in 3(e)(ii), primarily because we cannot envision circumstance in which it would be acceptable to apply manure safely within 100 feet, but also, again, because the Department lacks the expertise to evaluate alternative practices.

S3(D) should contain a requirement to update an NMP when necessary to meet the requirements of a TMDL.

Thank you for reviewing our comments. We look forward to working with the Department as the permit is finalized and implemented.

Yours,

Bruce Wishart
Policy Director
People for Puget Sound